IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 14261 of 2007(W)

PETITIONER:

THE TRIVANDRUM CO-OPERATIVE DISTRICT
WHOLE SALE SOCIETY LTD.NO.4,
SASTHAMANGALAM, TRIVANDRUM, REPRESENTED BY ITS
MANAGING DIRECTOR.

BY ADV. SRI.V.G.ARUN

RESPONDENTS:
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1. V.KRISHNAN NAIR, SANAKARA VILAS
T.C.18/172, ARAMADA P.O., TRIVANDRUM.

2. THE ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), TRIVANDRUM.

BY ADV. SRI.G.SASIDHARAN CHEMPAZHANTHIYIL
GOVT. PLEADER SRI.P.K.RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF THE PLAINT IN ARC 99 OF 1998 BEFORE THE JOINT REGISTRAR DTD. 29-10-98
EXT.P2	TRUE COPY OF THE ORDER DTD. 13-1-99
EXT.P3	TRUE COPY OF THE JUDGMENT IN A.P.24 OF 2002 OF THE CO-OPERATIVE TRIBUNAL DTD. 30-06-2003
EXT.P4	TRUE COPY OF THE JUDGMENT IN W.P.C.NO.8754/05
EXT.P5	TRUE COPY OF THE NOTICE DTD. 16-4-07
EXT.P6	TRUE COPY OF THE REPLY DTD. 20-4-07

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).No. 14261 OF 2007

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Dated this the 20th day of July, 2007

JUDGMENT

Petitioner challenges Ext.P5. Ext.P5 is the notices to enforce the award as confirmed by Ext.P3. Ext.P3 order of the Tribunal was challenged by the petitioner earlier culminating in Ext.P4 judgment. By Ext.P4 judgment, the writ petition filed by the petitioner is dismissed. This court took the view that petitioner cannot claim that the execution proceedings should be kept pending till the disposal of the another ARC, which is for a different cause of action.

2. Counsel for the petitioner submits that steps have been taken to challenge Ext.P4 in writ appeal and writ appeal has already been filed also. Ext.P5 is apparently issued on the basis of Ext.P4 judgment evidencing rejection of the petitioner's contention by the learned Single Judge. The remedy of the petitioner lies of course only in the filing of the writ appeal seeking setting aside of Ext.P4 judgment which the petitioner has

already done. In such circumstances, I think that there is no need to consider this writ petition. Regarding the second prayer which the learned counsel for the petitioner presses, learned counsel for the respondent points out that the very same prayer was there in the earlier writ petition and since the writ petition was dismissed, the remedy is to canvas the correctness of Ext.P4 judgment in appeal. I find merit in the said contention. Writ petition is dismissed without prejudice to canvas the correctness of Ext.P4 judgment.

(K.M.JOSEPH, JUDGE)

sv.